

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TITUS KELLAM,
Plaintiff,

v.

**CORRECTIONAL OFFICER
HOOVER, et al.,**
Defendants.

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CIVIL ACTION NO. 24-CV-6608

ORDER

AND NOW, this 2nd day of April, 2025, upon consideration of Plaintiff Titus Kellam's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement and Notice (ECF Nos. 2, 6), and *pro se* Complaint (ECF No. 3), **IT IS HEREBY ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Titus Kellam, # 1038210, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Curran-Fromhold Correctional Facility or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Kellam's inmate account; or (b) the average monthly balance in Kellam's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate and collect the initial payment assessed pursuant to this Order and shall forward the payment to the Court with a reference to the docket number for this case. In each succeeding month in which the amount in Kellam's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Kellam's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Warden of the Curran-Fromhold Correctional Facility.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED IN PART WITH PREJUDICE AND IN PART WITHOUT PREJUDICE** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for the reasons stated in the Court's accompanying Memorandum as follows:

a. All official capacity claims, claims based on grievances, and claims against the CFCF Medical Department and CFCF Mental Health Department are **DISMISSED WITH PREJUDICE**.

b. The deliberate indifference claim for not receiving a bottom bunk assignment is **DISMISSED WITHOUT PREJUDICE**.

6. The Clerk of Court is **DIRECTED** to terminate CFCF Medical Department and CFCF Mental Health Department as Defendants.

7. Kellam may file an amended complaint within thirty (30) days of the date of this Order only as to the claims dismissed without prejudice. Any amended complaint must identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint and shall state the basis for Kellam's claims against each defendant. Any amended complaint shall be a complete document that does not rely on the initial Complaint, or other papers filed in this case to state a claim. When drafting his amended complaint, Kellam should be mindful of the Court's reasons for dismissing the claims in his initial Complaint as explained in the Court's Memorandum. **If Kellam files an amended complaint and intends to proceed on claims that the Court has not dismissed, namely the claims against Defendants Hoover and Pedler as they relate to their alleged deliberate**

indifference to his medical needs in connection with his fall on August 8, 2024, and any related state law claims, he must replead these claims, including all facts related to these claims. Failure to do so will result in the claim being dropped from the lawsuit.

8. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

9. The Clerk of Court is **DIRECTED** to send Kellam a blank copy of the Court's form complaint for a prisoner filing a civil rights action bearing the above civil action number. Kellam may use this form to file his amended complaint if he chooses to do so.

10. If Kellam fails to file any response to this Order, the Court will conclude that he intends to proceed **only** on the deliberate indifference to serious medical needs claims against Defendants Hoover and Pedler as they relate to their alleged deliberate indifference to his medical needs in connection with his fall on August 8, 2024, and any related state law claims. For faster processing, Kellam may file a "Notice of Intent to Proceed" including Civil Action Number 24-6608 indicating that he intends to proceed only on these claims.

BY THE COURT:

/s/ John R. Padova, J.

JOHN R. PADOVA, J.